

Practitioner's Docket No. PHO-104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **FAX RECEIVED**

In re application of: Wachter et al.

Application No.: 09/096,832

Filed: June 12, 1998

Group No.: 3738

Examiner: Thomas C. Barrett

SEP 29 2006

**OFFICE OF PETITIONS**For: Improved Methods And Apparatus For Multi-Photon  
Photo-Activation Of Therapeutic AgentsDate of mailing "Notice of Allowance and  
Fee(s) Due": July 15, 2004  
Issue Fee paid: September 28, 2004

Confirm no. 2268

**Commissioner for Patents**  
P. O. Box 1450  
Alexandria, VA 22313**PETITION FOR WITHDRAWAL FROM ISSUE (37 C.F.R. 1.313)****PETITION**

1. Applicant hereby petitions for the withdrawal of this application from issue.

**PATENT ISSUE FEE**

2. The issue fee for this case has been paid on September 28, 2004

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service  
with sufficient postage as first class mail in an  
envelope addressed to the Assistant  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

**FACSIMILE**

transmitted by facsimile to the Patent and  
Trademark Office.

Signature

*Cristine M. Noll*Cristine M. Noll  
(type or print name of person certifying)

Date: September 29, 2006

10/02/2006 CKHLOK 00090007 501039 09096832

01 FC:1464 130.00 DA

(Petition for Withdrawal from Issue (37 C.F.R. 1.313))page 1 of 2

**REASON(S) FOR WITHDRAWAL REQUEST**

3. The reason for the request for withdrawal from issue is:

- (a) To consider the attached RCE to consider previously filed IDSs. Since paying the issue fee two years ago, Applicants have been waiting for this application to issue as a patent. During this delay, references were cited in related divisional application 09/571,099. Applicants filed these references in IDSs received by the Patent Office on March 3, 2005, June 17, 2005, and January 3, 2006. The Examiner, however, would not consider these references. Accordingly, Applicants are forced to file this petition and RCE.
- (b) It is respectfully submitted that this petition is not based on Applicants' actions but necessary in light of the delay by the Patent Office. Therefore, it is submitted that no fee should be due for this petition or RCE. If a fee should be due, please see the below authorization to charge our deposit account.

**PETITION FEES**

4. The petition fee (37 C.F.R. 1.17(i)) is paid as follows:

The undersigned hereby authorizes the Patent Office to charge to our deposit account 50/1039 for the petition sum of \$130.00 and any additional fee due.

If any further fee is due, please charge our deposit account 50/1039.

  
\_\_\_\_\_  
**SIGNATURE OF PRACTITIONER**

Reg. No. 34,225

Mark J. Murphy

Customer No.: 000026568

(Petition for Withdrawal from Issue (37 C.F.R. 1.313) (page 2 of 2)

## FAX RECEIVED

SEP 29 2006

GRANGER COOK, JR.  
 JOHN L. ALEX  
 DANIEL M. RIESS  
 EUGENE M. CUMMINGS  
 JAMES S. PRISTELSKI  
 GARY W. MCFARRON  
 RAYMOND M. MEHLER  
 EDWARD D. MANZO  
 JOEL H. BOCK  
 STEPHEN D. HELLER  
 DAVID LESHT  
 ANDREW G. KOLOMAYETS  
 MARK J. MURPHY  
 MICHAEL J. MCGEE  
 DAVID M. MUNDT  
 RENEE C. BARTHOL  
 LOUIS J. ALEX  
 MICHAEL D. ZARONIAS  
 PANASARN AIM JIRUT  
 PAUL M. RAYA  
 JOSEPH R. FREUND  
 BETSY J. LEVSTIK

COOK, ALEX, McFARRON, MANZO,  
 CUMMINGS & MEHLER, LTD. OFFICE OF PETITIONS

TELEPHONE  
(312) 236-8500

ATTORNEYS AND COUNSELORS AT LAW  
 INTELLECTUAL PROPERTY MATTERS

200 WEST ADAMS STREET • SUITE 2350  
 CHICAGO, ILLINOIS 60606

FACSIMILE  
(312) 236-8176EMAIL  
FIRM@CMMCM.COM

September 29, 2006

OF COUNSEL  
FRED S. LOCKWOOD  
EDWARD M. KEATING**VIA FACSIMILE**

Office of Petitions  
 Commissioner of Patents  
 U.S. Patent Office  
 Madison West Building  
 600 Delany  
 Alexandria, VA 22313-1450

Re: US Patent Application 09/096,832  
 Our file no. PHO-104

Dear Sir:

In order to withdraw the above application from issuance to consider an Information Disclosure Statement, we are enclosing herewith by facsimile:

- (1) Petition For Withdrawal From Issue; and
- (2) Request for Continued Examination (RCE)

Please withdraw this application from issuance for consideration of the Information Disclosure Statements received by the Patent Office on March 3, 2005, June 17, 2005 and January 3, 2006 as soon as possible, and prior to the issuance of this application.

Respectfully submitted,

Mark J. Murphy  
 Reg. No. 34,225  
 Customer no. 000026568

Enclosures

**Cook, Alex, McFarron, Manzo, Cummings & Mehler  
Ltd.**

FAX RECEIVED

200 West Adams Street, Suite 2850  
Chicago, Illinois 60606-5234

SEP 29 2006

TELEPHONE: (312) 236-8500

OFFICE OF PETITIONS  
FACSIMILE: (312) 236-8176

**FACSIMILE COVER SHEET**

---

<b>TO:</b>	<b>NUMBER OF PAGES (INCLUDING THIS TRANSMITTAL SHEET):</b>
Office of Petitions US Patent Office	5
<b>FAX:</b> (571) 273-0025	<b>PHONE:</b> (571) 272-3208
<b>DATE:</b> September 29, 2006	
<b>FROM:</b> Mark J. Murphy	
<b>REFERENCE:</b> US Application No. 09/096,832; Our Ref: PHO-104	
<b>MESSAGE:</b> Please see attached correspondence	

If you experience difficulty receiving this facsimile transmission, or a portion thereof, please contact Cristine Noll at 312-236-8500 for immediate assistance.

The information contained in this facsimile is intended only for the use of the individual or entity named above and those properly entitled to access to the information and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If the reader of this transmission is not the intended or authorized recipient, you are hereby notified that any unauthorized distribution, dissemination, or duplication of this transmission is prohibited. If you have received this transmission in error, please immediately notify us by telephone or facsimile. Thereafter, please destroy all pages received. Thank you.